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American
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Association



Commission on
Accreditation of
Rehabilitation
Facilities

OFFICE OF THE SHERIFF BARNSTABLE COUNTY

The Commonwealth of Massachusetts

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**Sheriff
James M. Cummings**

December 24, 2014

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: WC Docket No. 12-375, Inmate Calling Services

Dear Commissioner Thomas Wheeler:

Please accept this letter as my statement, and that of the Barnstable County Sheriff's Office, to maintain the inmate phone system and rates and commissions as they were before the First Notice of Rule Change and against the Second Notice of Rule Change.

The Barnstable County Sheriff's Office is a party to the ongoing litigation from the first Notice of Rulemaking. That matter is presently in abeyance. (United States Court of Appeals for the District of Columbia, Nos. 13-1280, 13-1281, 13-1291, 13-1300, 14-1006; Arizona Department of Corrections, Mississippi Department of Corrections and South Dakota Department of Corrections, Petitioners, and the Arkansas Department of Corrections, Indiana Department of Correction, and the Barnstable County Sheriff's Office, Intervenor, v. Federal Communications Commission and the United States of America, Respondents)

The proposed Rule Making is an inappropriate, one size fits all solution to a complicated situation that fits almost no one. The impetus behind the Rule Making appears to have the momentum and force of a moral imperative for change where the issues are equally complicated and much more morally murky than appears.

Barnstable County is also known as Cape Cod. Cape Cod is a spit of land into the Atlantic Ocean. It is also a well know vacation destination made famous by President John F. Kennedy and what we call the Kennedy Clan. Barnstable County does not border on any other state. Most of our neighbors are the cod, a form of fish. Both the staff and the inmates in our custody are primarily from here. It appears the moving parties behind this proposed Rule Making change are primarily family members of federal inmates. There are almost no federal prisons in New England. It is understandable that a Massachusetts family trying to contact a family member in a federal prison would have a long distance call across country. That almost never happens with our inmate population. Almost all of our calls are intrastate. In fact, most are local calls. The FCC is proposing to make changes to state issues based on dissimilar situations with federal inmates and inmates held in state and county facilities with

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different situations. In my sixteen years as Sheriff I have had one complaint about the cost of inmate phone calls and that was so long ago I barely remembered it. The FCC is proposing a solution to a problem that does not exist as far as I am concerned.

For better or worse, it is very expensive to watch television in America today. Cable providers are in that business to make a profit. If they did not make a profit we would still be watching television with rabbit ears and have a dozen stations. That is not the world we live in as Americans. I am not sure how an inmate phone system is different. The proposed rates and rules including the elimination of commissions for the hosting facility will have the inevitable result of making inmate phone services economically unfeasible. These systems are an important part of public safety.

Before the present high tech inmate phone systems there were the old style pay telephones on the old jail tiers or in the old jail units. In Massachusetts, those old jail and House of Correction tiers and jails as well as pay phones are a thing of the past. Those phones only processed collect calls. They were run by what we called "the phone company" before the variety of providers and plans we have today. If one of those phones broke, or was broken which was more likely the case, "the phone company" did not rush to send a technician to the jail or prison to fix it. Nor did the Sheriff's Office rush to make the call to get the phones fixed because the correctional facility had little interest, economic or otherwise, in making sure the phones worked.

This is what will happen if what the proposed Rule Making is adopted. The avowed purpose of the Rule Change is to increase communication with family members. It will have the opposite effect.

The Commonwealth of Massachusetts may not provide any service for free according to Massachusetts General Law chapter 7 § 3B. The Sheriff's Office would not be able to allow a phone provider to provide a service to inmates where the provider makes a profit and the Sheriff's Office makes none. We are required to make a return, even if at only cost, if Sheriff's Office property and lines are used.

It is my understanding that back in the day of pay phones wherever a pay phone was on private property that property owner was paid a commission. I do not see how my hosting an inmate phone service is any different.

The Sheriff's Office provides a regional 911 service. The Sheriff's Office is paid for every time it dispatches an ambulance to a motor vehicle accident or a fire engine to a fire. The Sheriff's Office charges an additional fee every time it connects an ambulance in our emergency response region to the Emergency Room in every hospital in the region. We actually sued many fire departments, ambulance services and even a hospital to get them to pay. The FCC wants the inmate phone system to be an exception.

The Sheriff's Office contracts out with a third party vendor to prepare meals for the

inmates and staff. It goes without saying that the Sheriff's Office has to feed the inmates in its custody. No one would propose legislation that would outlaw that the food service company making a profit. Practically speaking, that is what the proposed Rule Making requests. The Commonwealth is able to save the taxpayers hundreds of thousands of dollars by having a company with the buying power and expertise to provide those meals in a cost effective manner. The FCC wants the inmate phone system to be an exception.

Likewise, the Sheriff's Office contracts with a third party vendor to run an inmate canteen store. The inmate canteen is a place where inmates can buy things like shampoo, deodorant, healthcare items and snacks and sodas and the like. Again, that company provides an accounting program that keeps track of those purchases. That company has the buying power to provide those items at a cheaper cost. The Sheriff's Office would not be allowed to have a company run the store and not make at least cost for that service. The money the Sheriff's Office receives is called a commission for good reason. These third party vendors make a profit and some of that goes to the Sheriff's Office. The FCC wants the inmate phone system to be an exception.

Despite what anyone might think, it is difficult to find yourself behind bars. Incarceration is often a last resort for repeat offenders before the courts. In Massachusetts it is fair to say an inmate has either committed a serious of violent crime or been before a judge so many times that it is clear nothing else has worked. Our facility is not packed with innocent people sent to us to feed some imaginary criminal justice complex.

As a retired twenty four year member of the Massachusetts State Police who spent most of that time as an investigator and sixteen years as a Sheriff, let me state the obvious. Jails and prisons are filled with criminals. They do not always stop being criminals just because they are in a jail or prison. This may offend the family members who are the moving party behind the Rule Making process, but it is a cold hard fact. I have a Special Operations Unit that devotes a great deal of time to listening to inmate phone calls. Calling grandma over the holidays to see she how she is doing is as common as making a call to intimidate a witness or finalize a drug deal.

My investigators were able to intercept a call to hire a hit man to murder a witness. Fortunately, the outside contact that was on his way to pay the hit man was met by an undercover policeman. I hope the FCC does not only have the concerns of the inmate families under consideration. I hope they have the concerns of the potential victims of crimes and the safety of my staff and law enforcement officers across the county in consideration as well. These high tech phone systems allow my staff to quickly target inmate identification numbers, specific phone numbers, and conduct investigations. I know my community is safer because of the work they do. If the proposed rules go through, it is inevitable that we will lose these modern phone systems.

The rates from a jail are to my understanding similar to the rates one would pay in a hotel. Of course, everyone has cell phones today and no one uses those phones anymore.

But those rates were set by the FCC and Massachusetts rate setting bodies. There is a tone in the protests to the existing rates that the level and nature of these rates evidence that the jails, houses of correction and prisons are operating under some sinister policies, costs, commissions and motives. On the contrary, it is all according to law and all a public record.

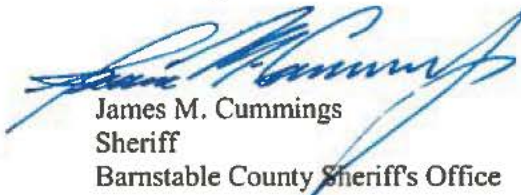
And I will not shy away from the fact that this will cost the Sheriff's Office revenue. My facility was picked as one of six facilities across the country as a Department of Justice model for programs that support successful inmate reintegration. I put the commissions paid right back into those successful programs. President Obama singled my facility out in his annual drug treatment report for our ground breaking introduction of Vivitrol, an effective treatment for opiate addiction.

Every year the state of Massachusetts cuts my budget. This year is worse. I have fought to maintain these nationally recognized programs. I have fought running not much more than a human warehouse. I know my community is better off when inmate phone calls help support these programs. I have three staff members who work full-time with inmates on integration signing them up for MassHealth (Medicaid), housing, programs and jobs. The loss of commissions will equate to three to four jobs. I cannot cut security staff. If I have to make cuts, it will almost surely come from these programs. My facility has one of the lowest recidivism rates in the state, if not the country.

Cutting this revenue is short sighted in every way. Maintaining the cost of the high tech inmate phone systems will no longer be maintainable and that will put the citizens I am sworn to protect at risk. Losing the revenue for our nationally recognized programs will put everyone, even the inmates in my custody at risk.

Thank you in advance for your kind attention to this matter.

Yours truly,



James M. Cummings
Sheriff
Barnstable County Sheriff's Office